

BEFORE THE OFFICE OF THE COMMISSIONER OF RAILROADS

STATE OF WISCONSIN

In the Matter of the:

Petition of the Town of Madison for the Establishment of a Public Crossing of East Badger Road and the Alteration of a Public Crossing of Ski Lane with the Tracks Owned by the Union Pacific Railroad Co. and Operated by the Wisconsin & Southern Railroad Co. in the Town of Madison, Dane County

9170-RX-165

SUPPLEMENTAL ORDER

On May 29, 2003, the Office of the Commissioner of Railroads (OCR) issued an order that required the establishment of a public crossing of East Badger Road and the alteration of a public crossing of Ski Lane with the tracks owned by the Union Pacific Railroad Co. (UP) and operated by the Wisconsin & Southern Railroad Co. (WSOR) located in the Town of Madison, Dane County by **October 1, 2004**.

By letter dated September 29, 2004, the Town of Madison filed a request for an extension of time to October 1, 2005. The Town indicates construction has been delayed due to delays by the Union Pacific Railroad Co. in issuing 'permits' for the crossing work. The Town also requested that the OCR clarify whether or not the Town may proceed with construction of the crossings before receiving a permit from the Union Pacific Railroad Co.

The Commissioner grants the extension of time requested by the Town. The Commissioner notes that the OCR order gives the Town the authority to construct the West Badger Road crossing and to alter the Ski Lane crossing without a 'permit' from the UP. While the UP is entitled to some compensation for the use of its property by the highway the UP is not entitled to prevent the project construction from going forward. The Commissioner also notes that the track currently carries no train traffic, but may begin carrying traffic in the future. It is to the benefit of all parties for this work to be done before rail operations recommence.

THEREFORE, IT IS ORDERED,

That the provisions of paragraphs 1 and 2 of the final decision be amended to read:

1. That the **Town of Madison** shall construct a grade-separated crossing of **East Badger Road** with the tracks owned by the Union Pacific Railroad Co. and operated by the Wisconsin & Southern Railroad Co. as proposed by it in the Town of Madison, Dane County by **October 1, 2005**.

2. That the **Town of Madison** shall construct the **Ski Lane Pedestrian Underpass** under the tracks owned by the Union Pacific Railroad Co. and operated by the Wisconsin & Southern Railroad Co. in accordance with the design plans of the Town of Madison in the Town of Madison, Dane County by **October 1, 2005**.

Dated at Madison, Wisconsin, \_\_\_\_\_.

By the Office of the Commissioner of Railroads.

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Rodney W. Kreunen  
Commissioner of Railroads

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